



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,359	07/19/2006	Jari Rasanen	0696-0227PUS1	8787
2292 7590 03/29/2010 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER NEWAY, BLAINE GIRMA				
ART UNIT		PAPER NUMBER		
3728				
NOTIFICATION DATE		DELIVERY MODE		
03/29/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/563,359

Applicant(s)

RASANEN ET AL.

Examiner

BLAINE G. NEWAY

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 December 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-15, 17 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-15, 17-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This office acknowledges the applicant's amendment filed 12/4/09. Claims 1, 3-15, 17-18 are pending in the application; and claims 2 and 16 have been canceled.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
4. Claims 1, 4, 9-14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allison (US 2,971,638) in view of Ehrlund (WO 02/38454).

In re claim 1: Allison discloses an encapsulated blister package formed as a disposable consumer package, having:

an inner part or dispensing container made of packaging board and having a base 21, and being folded; and

a disc 22 formed as a blister package and fitted rotatably onto the base 21 of the inner part, and

the base 21 having has an outlet opening 27 below the disc so that products brought to the opening by rotating the disc 22 can be released from the disc by pressing a respective blister and removed from the package through the opening 27 (figures 1-3 and column 2, lines 10-15).

Allison fails to disclose the following claimed limitation taught by Ehrlund in figures 1 -6, page 4, lines 25-27 and lines 36-39.

a fiat outer casing 2 made of packaging board by folding and seaming and having at least one open edge (edge opposite to 2c), wherein an inner part 3 is disposed in the outer casing 2 so that the inner part 3 is slidably extractable at least partly from the open edge of the outer casing 2; and the casing 2 and/or the inner part 3 being provided with a retainer or locks (i.e., sleeve tab 14 and stop tab 15), preventing the inner part from becoming loose from the casing.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have made the inner part of Allison, slidably extractable from an open edge of an outer casing, and providing the casing or the inner part with locks or sleeve tabs, for the predictable result of better protecting contents against children gaining access as taught by Ehrlund on page 2, lines 14-18.

Alternately, in re claim 1: Allison discloses an encapsulated blister package formed as a disposable consumer package, having:

an inner part or dispensing container made of packaging board and having a base 21, and being folded; and

a disc 22 formed as a blister package and fitted rotatably onto the base 21 of the inner part, and

the base 21 having has an outlet opening 27 below the disc so that products brought to the opening by rotating the disc 22 can be released from the disc by pressing a respective blister and removed from the package through the opening 27 (figures 1-3 and column 2, lines 10-15).

Allison fails to disclose the following claimed limitation taught by Ehrlund in figures 1 -6, page 4, lines 25-27 and lines 36-39.

a fiat outer casing 2 made of packaging board by folding and seaming and having at least one open edge (edge opposite to 2c), wherein an inner part 3 is disposed in the outer casing 2 so that the inner part 3 is slidably extractable at least partly from the open edge of the outer casing 2; and the casing 2 and/or the inner part 3 being provided with a retainer (i.e., sleeve tab 14 and stop tab 15), preventing the inner part from becoming loose from the casing.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have made the inner part of Allison, slidably extractable from an open edge of an outer casing, and providing the casing or the inner part with a sleeve tab, for the predictable result of better protecting contents against children gaining access and to prevent the insert from being drawn completely out of the sleeve as taught by Ehrlund on page 2, lines 14-18 and page 8, lines 25-30.

In re claim 4: Allison further discloses the disc 22 containing individual products 31 arranged to form a ring so that they can be brought to the outlet opening 27 in the base 21 one at a time by rotating the disc 22 (figure 1).

In re claim 9: Allison further discloses the disc 22 having a sector, which is free of the packed products, and that in an unopened package, the sector being located at the outlet opening 27 in the base 21 (figures 1 and 2).

In re claim 10: Allison further discloses the disc 22 being articulated onto the base from its middle section at eyelet 29 (figure 1).

In re claim 11: Allison further discloses the inner part having the base 21 and a projection 20 extending from its side above the disc 22 for keeping the disc 22 in place on the base 21 (figure 1) .

In re claim 12: Allison further discloses the disc 22 resting freely on the base 21 so that the disc can be rotated by fingers (figure 1).

In re claim 13: Allison further discloses the projection 20 being formed as an annular rim encircling the circumference of the disc 22 (figure 1).

In re claim 14: Allison further discloses the rim having a tongue 25 which extends towards the centre of the disc so that the tongue can cover a blister (figure 1).

In re claim 17: Allison further discloses the package being a medicine package containing pills 31 (figure 1 and column 2, lines 39-44).

In re claim 18: Ehrlund further teaches the retainer 14 discussed above comprising an inner fold of the flat outer casing at the open edge of the casing which

prevents the inner part, when extracted, from becoming loose from the outer casing (figure 2).

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Allison (US 2,971,638) in view of Ehrlund (WO 02/38454) as applied to claims 1 and 2 above, further in view of Studer (US 4,165,709).

Allison further discloses the disc 22 having a blister sheet of flexible plastics (column 2, lines 24- 27).

However, the combination of Allison and Ehrlund fails to disclose the following claimed limitations taught by Studer in column 6, lines 59-61:

a bottom 62 made of flexible material which breaks when a product is released by pressing.

It would have been obvious to one of ordinary skill in the art at the time the invention was made, to have provided the disc of the device of the combination of Allison and Ehrlund, a bottom made of flexible material, for the predictable result of to maintain the pills in position and prevent them from accidentally dropping out of the package due to their own weight as taught by Studer in column 6, lines 64-67.

6. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allison (US 2,971,638) in view of Ehrlund (WO 02/38454) as applied to claims 1 and 4 above, further in view of Ruoss et al (US 3,199,489), Ruoss herein.

The combination of Allison and Ehrlund discloses all elements of the claimed invention except for the products being arranged as several concentric arcs or rings or a spiral in the disc.

However, Ruoss teaches products arranged as several concentric arcs or rings or a spiral in the disc (Column 1 lines 15-21).

A person of ordinary skill in the art has a good reason to pursue the known options within his or her technical grasp, namely, arranging the products as concentric arcs or rings or spirals, since Ruoss clearly disclose a finite number of arrangements of products on a disc.

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Allison (US 2,971,638) in view of Ehrlund (WO 02/38454) as applied to claim 1 above, further in view of Wagner (US 3,143,207).

The combination of Allison and Ehrlund discloses all elements of the claimed invention except for the following limitation which is taught by Wagner in figure 6:

a base provided with a longitudinal outlet opening 48, extending in the direction of the radius of a disc.

It would have been obvious to one of ordinary skill in the art at the time the invention was made, to have made the opening of the device of Allison and Ehrlund, a longitudinal outlet opening extending in the direction of the radius of the disc, for the predictable result of dispensing two rows of pills, by restricting the width to allow dispensing of only one pill at a time, as taught by Wagner in column 4, lines 36-38.

8. Claims 8 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allison (US 2,971,638) in view of Ehrlund (WO 02/38454) as applied to claims 1 and 14 above, further in view of Frantellizzi (2,694, 286).

The combination of Allison and Ehrlund discloses all elements of the claimed invention except for the base or the tongue containing a hindrance or at least one fin directed down towards the disc, turning to only one direction so that, in cooperation with a blister, it allows the disc to rotate to only one direction.

However, Frantellizzi teaches a catch 30 attached to a base preventing any movements of a gear in a counter-clock wise direction (figure 2 and column 2 lines 53-55).

It would have been obvious to one of ordinary skill in the art at the time the invention was made, to have provided a catch at the fold line 26, of the device of the combination of Allison and Ehrlund, for the predictable result of rotating the disc in one direction only in order to dispense the pills contained in order, when pills are needed to be taken in the order they are packaged.

Response to Arguments

9. Applicant's arguments filed 12/4/09 have been fully considered but they are not persuasive. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In response to applicant's argument that the locks of Ehrlund are for keeping the insert within the sleeve and not for preventing separation of the inner part, a recitation of the intended use of the claimed invention must result in a structural

difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. However, Ehrlund clearly teaches the locks (i.e. the sleeve tab 14 and the stop tab 15) being used for preventing the separation of the inner part (column 8, lines 25-30).

10. Please note that the alternative rejection was used to reject the newly added claim.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BLAINE G. NEWAY whose telephone number is (571)270-5275. The examiner can normally be reached on M-F 7:30 AM- 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached on 571 272-4828. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B. G. N./

Examiner, Art Unit 3728

3/19/2010

/Ehud Gartenberg/

Supervisory Patent Examiner, Art Unit 3728